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SERVICE DATE – JULY 24, 2003

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34369]

Morristown & Erie Railway, Inc.–Modified Rail Certificate

On June 26, 2003, Morristown & Erie Railway, Inc. (M&E), filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, Subpart C, Modified Certificate of Public Convenience and Necessity, to operate a portion of a rail line known as the Octoraro Branch (also referred to as Line 142), extending for approximately 36.50 miles between milepost 18.0 at Wawa, PA, and milepost 54.50 at the Pennsylvania/Maryland state line near Sylmar, MD.

The Octoraro Branch was previously owned by the Penn Central Transportation Company (Penn Central), and is currently owned by the Southeastern Pennsylvania Transportation Authority (SEPTA). The Octoraro Branch was not included in the final system plan at the time the Consolidated Rail Corporation was formed and, as such, was authorized to be abandoned without further regulatory approval pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. No. 94-210. SEPTA acquired the Octoraro Branch from the trustees of Penn Central after it was abandoned in 1976.

M&E states that, until recently, the line was operated by the Brandywine Valley Railroad Company (BVRT) and the purchaser of its rail assets, ISG Railways, Inc. (ISG),

pursuant to a modified rail certificate issued in Brandywine Valley Railroad Company–Modified Rail Certificate, STB Finance Docket No. 33722 (STB served Apr. 16, 1999).<sup>1</sup> On April 1, 2003, BVRR filed with the Board, pursuant to 49 CFR 1150.24, a notice of intent to terminate service over the Octoraro Branch 60 days from the date of its notice. According to M&E, BVRR and ISG have terminated operations on the line. M&E states that, under an interim operating agreement between SEPTA and M&E, M&E will operate the Octoraro Branch for an interim period while SEPTA completes its procurement process to select a new railroad to provide freight service on the line. M&E also states that it will operate the line using the trade name Octoraro Railroad.

The rail segment qualifies for a modified certificate of public convenience and necessity. See Common Carrier Status of States, State Agencies and Instrumentalities and Political Subdivisions, Finance Docket No. 28990F (ICC served July 16, 1981).

M&E indicates that no subsidy is involved, that there are no preconditions for shippers to meet to receive rail service, and that it has obtained liability insurance coverage.

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<sup>1</sup> Pursuant to an exemption that became effective on April 29, 2003, in ISG Railways, Inc.–Acquisition of Control Exemption–Assets of Keystone Railroad LLC d/b/a Philadelphia, Bethlehem and New England Railroad Company, Conemaugh & Black Lick Railroad Company LLC, Steelton & Highspire Railroad Company LLC, Lake Michigan & Indiana Railroad Company LLC, Brandywine Valley Railroad Company LLC, Upper Merion & Plymouth Railroad Company LLC, Patapsco & Back Rivers Railroad Company LLC, and Cambria and Indiana Railroad, Inc., STB Finance Docket No. 34344 (STB served May 22, 2003), ISG was authorized to acquire the rail lines and assets of BVRR.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement: Association of American Railroads, 50 F Street, N.W., Washington, DC 20001; and on the American Short Line and Regional Railroad Association: American Short Line and Regional Railroad Association, 1120 G Street, N.W., Suite 520, Washington, DC 20005.

Decided: July 16, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary